

Congress of the United States
Washington, DC 20515

November 12, 2003

The Honorable Tommy G. Thompson
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Mr. Secretary:

Thank you for your reply to our letter of August 18, 2003. As you know, we wrote to express our concern that you have not yet fully implemented the legislation signed by President Bush on April 30, 2003, which created a compensation program for first responders who are injured by the smallpox vaccine.

In your reply of October 8, 2003 you pointed to the publication of the smallpox vaccine injury table in the *Federal Register* on August 27, 2003. While we are pleased that this table is now technically in effect, the reality is that the table is utterly useless without accompanying implementing regulations. Until these regulations are finalized, there are no administrative procedures by which injured first responders can make claims, no established procedures by which claims can be processed, and therefore no compensation. Without implementing regulations, there is simply no Smallpox Vaccine Injury Compensation Program. We remind you that a recent Institute of Medicine report concluded that the lack of a compensation program "could seriously impact the [smallpox vaccine] program's achievement of its overall goals of increasing United States terrorism preparedness."¹

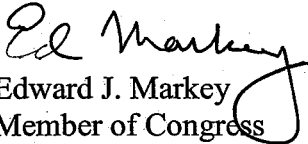
You claim in your reply that the regulations will be published "as soon as possible". We would like to know when specifically this will happen. We would also like you to answer the following questions about the impact that the lack of a functioning compensation program may have had:

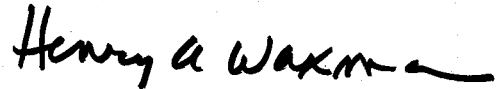
- How many first responders have been injured by receiving the smallpox vaccine since January 1, 2003?
- What were the nature and numbers of these injuries?
- What fraction of the total number of first responders receiving the vaccine has been injured?

¹ See Institute of Medicine, *Review of the Centers for Disease Control and Prevention's Smallpox Vaccination Program Implementation* (January 16, 2003).

We appreciate your attention to this issue. It is vital that first responders, who are our nation's primary line of defense against many forms of terrorism, be treated fairly and have confidence in the smallpox vaccination program. We are committed to ensuring that this is the case. Please respond by November 24, 2003. If you have any questions, please contact Dr. Colin McCormick of Representative Markey's staff at (202) 225-5420.

Sincerely,


Edward J. Markey
Member of Congress


Henry A. Waxman
Member of Congress


Lois Capps
Member of Congress